



**SHERWOOD CITY COUNCIL MEETING MINUTES**  
**22560 SW Pine St., Sherwood, Or**  
**September 15, 2015**

**WORK SESSION**

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 5:32 pm.
2. **COUNCIL PRESENT:** Mayor Clark, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris and Renee Brouse. Council President Sally Robinson and Councilor Dan King were absent.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Community Services Director Kristen Switzer, City Engineer Bob Galati, Planning Manager Brad Kilby, Senior Planner Michelle Miller, Police Chief Jeff Groth, Volunteer Coordinator Tammy Steffens, and City Recorder Sylvia Murphy.

4. **TOPICS:**

**A. Metro Update**

Metro Councilor Craig Dirksen presented information to the Council (see record, Exhibit A). He provided handouts regarding housing (see record, Exhibit B). Discussion followed.

5. **RECESS:**

Mayor Clark recessed the work session at 5:50 pm to hold a Solid Waste Community Enhancement Program Advisory Committee meeting (see record of this committee meeting for meeting materials).

6. **RECONVENE:**

Mayor Clark reconvened the Council work session at 6:38 pm.

**B. Tualatin-Sherwood Road Update**

Russ Knoebel Principle Engineer with Washington County presented information (see record, Exhibit C) and explained. Council questions followed.

7. **ADJOURN:**

Mayor Clark adjourned the work session at 7:00 pm and convened to a regular Council meeting.

## **REGULAR SESSION**

1. **CALL TO ORDER:** Mayor Clark called the meeting to order at 7:10 pm.
2. **COUNCIL PRESENT:** Mayor Clark, Council President Robinson, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris, Renee Brouse and Dan King.
3. **STAFF PRESENT:** City Manager Joe Gall, Assistant City Manager Tom Pessemier, City Attorney Josh Soper, Police Chief Jeff Groth, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, City Engineer Bob Galati, Planning Manager Brad Kilby, Senior Planner Michelle Miller, Library Manager Adrienne Dorman Calkin, and City Recorder Sylvia Murphy.

Mayor Clark addressed the next agenda item and asked for a motion.

## **4. APPROVAL OF AGENDA:**

**MOTION: FROM COUNCILOR HENDERSON TO APPROVE THE AGENDA, SECONDED BY COUNCIL PRESIDENT ROBINSON. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next item on the agenda and asked for a motion.

## **5. CONSENT AGENDA:**

- A. Approval of August 18, 2015 City Council Meeting Minutes
- B. Approval of September 1, 2015 City Council Meeting Minutes
- C. Resolution 2015-074, Appointing Madeline Robinette to the Library Advisory Board
- D. Resolution 2015-075, Supporting an update to the Sherwood Comprehensive Plan and authorizing staff to apply for grant funds from the Department of Land Conservation and Development in support of the Comprehensive Plan Update

**MOTION: FROM COUNCILOR BROUSE TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR KING. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next agenda item.

## **6. PRESENTATIONS:**

### **A. Eagle Scout Recognition**

Mayor Clark recognized Michael Schantin for receiving his Eagle Scout Award and asked him to explain his eagle project. Michael explained for his project he went to where his brother rests at St. Patrick's Cemetery in Canby and cleaned up the tombstones and placed slats into the chain link fence and installed two cement benches. Michael explained Troop 224 assisted with the project as well as friends and family. Councilor Brouse asked how he selected his project and Michael stated while visiting his brother he noticed the cemetery was messy and had housing developments around it and trash had

gathered along the fence and he wanted to clean it up. Mayor Clark presented Michael with a Certificate of Achievement.

Mayor Clark addressed the next agenda item.

## 7. CITIZEN COMMENTS:

Doug Pederson came forward and provided information to the Council and said he is the President of the Sherwood Village Homeowners Association and said they have a park structure that is falling apart. He said they need to formalize an agreement with the City and stated they have had an agreement for the past 10 years and it has come due. He said he spoke with Public Works Director Craig Sheldon about the agreement and the playground structure. He said the structure has been condemned a bit and a portion of it has been boarded up and some of the slides need to be removed. He said they are looking at about \$100,000 per Craig and they can't afford this. He said they can either remove it and not replace it or they are able to cover 20% of the cost and have the City pay for the remainder.

Mayor Clark asked City Attorney Soper to comment on the agreement with the HOA.

Mr. Soper stated the agreement expired in August and was renewed for an additional 60 days. He said the agreement states the association is completely responsible for the maintenance of the park.

Mr. Pederson said they are responsible for maintenance and water and referred to the handout indicating the park location and the green space that belongs to the HOA.

Mayor Clark asked if they have had a maintenance schedule on the playground structure. Mr. Pederson replied kind of and said they have been replacing things as needed. When asked who performs the work he replied he did not know and it is a company out of Baker. Craig Sheldon replied he believes it is Natural Structures which used to be in Sherwood and are out of Baker.

Council President Robinson said under the current contract the homeowners association is responsible for erection of a new structure, technically, correct? Mr. Pederson replied not necessarily and that it was up in the air and it's the maintenance of. He said whether or not they buy the new structure or not, they will have to look at this.

City Attorney Soper replied the language in the contract states, *"the association shall be responsible for maintenance and care of Langer Park, the improvements located therein including but not limited to existing or future play structures."*

Mayor Clark asked Mr. Sheldon, since he is aware of the Natural Structures agreement, was there a regular maintenance schedule with this? Craig replied the City does the inspections of the facility and the HOA is responsible for the maintenance and they order the parts and install and the City inspects. He said the structure is in bad condition and it is not the same type of structure the City has in other parks. He said when Natural Structures installed the structure, they did not use the same materials we've used in our other parks. Craig said the park also needs to be brought up to meet ADA requirements. He reminded the Council the City spent approximately \$107,000 at Murdock Park, which is of similar size.

Mayor Clark asked Mr. Pederson what are the current HOA annual fees. He replied \$200 per household. She asked how many residents they have and he replied 211. She asked what the current balance was on the HOA. Mr. Pederson stated he did not know. Mayor Clark said she believes the City needs to have this information and this is something that would be referred to the City's legal department to handle.

Nancy Taylor Sherwood resident requested clarification from the Mayor on a council member and said a Council member previously spoke on whether or not graffiti on buildings, and it occurred to her that one of the Council members manages a building that could possibly have graffiti on it and asked if we have seen the document this councilor has and do we know when she should recuse herself and when she should not? She said this is a legal question for the legal department as it is listed on the agenda again.

City Attorney Soper replied the government ethics laws don't consider it to be a conflict of interest if you will be impacted the same degree as a class of individuals, so if you own a building in Sherwood that is potentially going to be impacted just like any other building in Sherwood, this is not a conflict of interest.

Jim Claus Sherwood resident came forward and said it is time the Council zones people out of these riparian corridors, it makes trespass. He commented regarding the trestle fire and said the kids should have never been in that area. He said all zoning in the US or land use regulation is aimed at people and this is a bad idea. He said there is no City in the US that zones for fish and wildlife. He shared a story regarding Redhead Ducks and fish and wildlife having different needs than we do. He said the problem is, if you think about fish and wildlife you build a sustainable environment, because the environment we need for long run sustainability, they have to live. He said that is why the Tualatin River is cleaning up. He said it's the refuge that is cleaning it and is making water for all of us. He said in an urban situation other than the water we put on our lawn, residential and retail doesn't use any water, he said what goes in the pipe comes out. He said this City is ideally petitioned to be the first village in the US to say we are going to create a zone for fish and wildlife. He said if that had happened you would have that 100 year railroad trestle. He said the Council has an opportunity and it is still here to create zones where you don't let people go.

Mayor Clark addressed the next agenda item.

## **8. PUBLIC HEARING:**

### **A. Ordinance 2015-006, amending title 9 of the Municipal Code relating to public peace, morals and welfare by adding a new chapter 9.62 relating to graffiti**

Police Chief Groth stated this is the second reading for this ordinance and said the Council heard it at their previous meeting. He said this amendment would establish code language to specifically deal with graffiti and related aspects, including possession of graffiti related tools and requirements to report, clean up and remove graffiti. He said the code would provide tools for police officers and the municipal court to address graffiti locally in our court system. He said if approved tonight it will become effective in 30 days.

Mayor Clark opened the public hearing.

Tess Keis 22923 SW Pine Street, #1, Sherwood came forward and stated as a licensed property manager when the Council spoke about graffiti issues at the previous council meeting she had concerns from a property management perspective and the time that it takes to address an issue and solve a

problem. She said sometimes a building may be owned by an owner and maybe a triple net situation or a situation where the owner is off site. She provided the council with a copy of language from the City of Portland and said in her research, Portland's language was pretty good and concise and gave a great parameter on how to deal with graffiti, notification and timelines. She said four days is not enough time and said most state statutes for right to cure are always ten days. She said she doesn't know if this falls under what cities can do and asked the Council to look at the timeline for getting rid of graffiti. She said what she likes about the Portland language is the ways you can notify people and time to cure the problem as well as having resources available. She commented regarding companies bidding on jobs and allowing time to find out who will be able to remove the graffiti in the best way for the best price. She requested the Council consider providing more time as four days is not enough.

Eugene Stewart Sherwood property owner came forward and stated he was talking to a lady at the Odd Fellows Hall and said the reason they did not clean up the graffiti right away was because they were advised by the police department to hold off until the issue was.... he did not know whether they were trying to get it so that the juveniles would paint it. He said if there is a delay in the court system, why are you pushing so long, four days for the property owner to go out and do it when they are the ones that have been harmed, yet they are being somewhat punished. He commented regarding the graffiti in the alley which was painted over and said you can still see the difference in colors and said the person should be made to have a good paint job. He said he was wondering what the problem is, and to him, the problem is the person putting the graffiti on the building and how you address that so they don't do it again. He said whereas if you make the property owner responsible for it right away, are they going to get reimbursed? He said is there no punishment for the person who did it, because it's been taken care of for him? He said he did not think this ordinance at this time addresses what the real problem is.

Mayor Clark closed the public hearing and asked Chief Groth to comment, she stated the timeline issue was discussed and Chief Groth had some points to make. Chief Groth stated he wanted to highlight in the ordinance language 9.62.060, regarding the timeline. He said in subsection (2), it says, *"whenever manager determines the graffiti exists on any property in the City, the manager may issue an abatement notice. The owner shall have 4 four calendar days after the date of service of the notice...."*. He said in reality depending on when the graffiti is discovered and depending on when the notice is issued, it may very likely be more than four days that the owner has to remove the graffiti. He stated, graffiti attracts graffiti and the rational across the board is to remove the graffiti. He referred to the language in subsection (4) and "hardship" and the owner contacting the City Manager requesting more time. He said he does not envision the City not allowing more time. He said it is very common in an ordinance like this to have a time noted and said City Attorney Soper also reviewed the language. He addressed the issue of responsibility and said the ordinance also allows for restitution. He said the owner removes the graffiti at their own expense before things are settled in court. He said the value of this is we get to settle it in our own municipal court and our judge has the ability to apply restitution as noted in the code language.

Mayor Clark asked if Chief Groth felt comfortable with the 48 hours plus the 4 days for removal time. Chief Groth replied yes, and said this is what he suggested. He said City Attorney Soper reviewed a lot of ordinances to ensure ours was consistent and common.

City Attorney Soper stated he looked at a lot of ordinances and said four days did not seem inconsistent with what was commonly done in the area.

Councilor Henderson commented regarding notification to the property owner, where in some cases could be out of state. She asked if we contact them off the tax rolls. City Attorney Soper stated we defined “owner” very broadly to basically encompass any possible situation that could come up, where you could have an out of state owner, we have a local property management company and in that case we would notify the local property management company. He said we have the flexibility under the code to adapt to different types of ownership situations.

Councilor Henderson asked if we would attach a copy of the ordinance to the letter so they understand or will we just outline it in the letter. Mr. Soper replied it is required in the letter that we outline the substance of the ordinance. Councilor Henderson referred to the subsection language about hardship and the owner’s ability to contact the City Manager and said if you don’t have a copy of the ordinance, how would you know that? Mr. Soper replied one of the things that is required to be in the notice is a statement that if the graffiti is not abated and good cause for failure to abate is not shown then a citation may be issued.

Councilor Henderson asked who will send out the letter. Mr. Soper replied the City Manager or his designee. She asked if it is code compliance and City Manager Gall replied it will be our Code Enforcement Officer. She asked if he would be the contact person if the property owner requested additional time. Mr. Gall replied they would probably contact him (Code Enforcement Officer) and it would probably come to the City Manager’s office.

Councilor Harris stated her concern was the four-day period and hardships and said it was addressed by being able to speak with the City Manager. She said she believes it meets both needs of removing the graffiti as soon as possible as well as helping an owner who might be struggling to get it removed.

City Manager Gall gave an example of a similar situation with a privately owned cemetery along Roy Rogers Road that had code issues and the property owner lived out of town. He explained how he and code compliance worked with the property owner to resolve the issues. Councilor Harris added communication with the City is important.

Mayor Clark said she appreciates Chief Groth bringing this forward and said it is something that has come up, although has not escalated to an ongoing problem, but we don’t want it to happen. She said she believes it is prudent to have an ordinance in place that addresses it and said we always want to work with our property owners and businesses to make Sherwood the greatest place to live.

Mayor Clark stated the following motion.

**MOTION: FROM MAYOR CLARK TO READ CAPTION AND ADOPT ORDINANCE 2015-006 AMENDING TITLE 9 OF THE MUNICIPAL CODE RELATED TO PUBLIC PEACE, MORALS AND WELFARE BY ADDING A NEW CHAPTER 9.62 RELATING TO GRAFITTI.**

Prior to receiving a second to the motion, Councilor Kuiper referred to Section 4 of graffiti removal notices and procedures and said this could be broadly defined as being out of town and unreachable.

**SECOND: MOTION WAS SECONDED BY COUNCILOR HARRIS. MOTIONED PASSED 7:0, ALL VOTED IN FAVOR.**

Mayor Clark addressed the next agenda item and the City Recorder read the public hearing statement.

**B. Ordinance 2015-007 Amending Title 6 of the Municipal Code and Division II of the Zoning and Community Development Code and Chapter 6 of the Municipal Code as it relates to the regulation of backyard chickens**

Senior Planner Michelle Miller presented information to the Council (see record, Exhibit D) and stated the purpose of the hearing is to present the proposed code amendments to the Municipal Code regarding backyard chickens. She stated it was reviewed at a public hearing before the Planning Commission on July 14, 2015. She said ultimately the Planning Commission voted not to recommend the proposed language. She stated backyard chickens currently fall under the category of raising animals other than household pets in the residential zone. She said this category is considered a conditional use and a conditional use permit is required and is considered a Type 3 land use action requiring a hearing before a Hearings Officer, notice to property owners within 1000 feet and publication in the newspaper. She said the City does not have a record of any conditional use permit regarding backyard chickens.

She said in 2011 as part of a larger code cleanup project the Planning Commission reviewed regulating backyard chickens in Sherwood, conducted public outreach and proposed some code amendment recommendations to City Council. She noted the Council did not forward the recommendation to a public hearing at that time. She said in the spring, the Council requested the Planning Commission re-visit the proposed code language. She stated the recent public outreach included an online survey on backyard chickens which received over 530 completed responses. She noted the Planning Commission took the online survey results, reviewed the previous language and developed language at a work session. She said notice of a public hearing was published in the Sherwood Archer, the Sherwood Gazette and the Tualatin Times and was posted at five locations throughout town.

Ms. Miller discussed the proposed language and noted the new chapter in the Municipal Code entitled Backyard Chickens falls under the category of animals. She said the language includes limiting the number of chickens based on the size of the lot, not allowing roosters, and rules for the enclosure location. She said the enclosures have to be in the backyard or side yard and have to be 10 feet away from all of the property lines and 25 feet from any adjoining and abutting dwelling units. She noted the proposed language also addresses the enclosures and ongoing maintenance. She said enclosures need to be secured at night, or within a fence during the day and chickens need to stay on their own property and enclosures must be clean. She said the language includes procedures for obtaining a chicken license and penalties for any violation. She stated in the current zoning and development code a footnote was added to the provision of raising animals other than household pets and refers them to the new chapter created in the municipal code.

Ms. Miller stated the Planning Commission held a public hearing on July 14 where three people testified against establishing the regulations with two additional written comments also against the issues. She said no one testified in favor of the proposed language. She said based on the information the Planning Commission had before them they recommended denial of the proposed code language. She said they were concerned that there was not enough community support in favor of changing the current policy and found the testimony was persuasive against raising chickens in residential neighborhoods. She said the Council has several alternatives: Accept the Planning Commission recommendation and not approve the Ordinance, approve the Ordinance as written, approve the Ordinance with modification or send it back to the Planning Commission for further review. She referred to the meeting packet and said it includes the draft Ordinance, Exhibit A which is the proposed code amendment language, Attachment 1 which is the findings and attachments to the findings are Exhibit A – Exhibit H which includes the survey results, Chief

Groth's recommendation and comments and other additional written testimony. She stated the Council received emails after the packet was completed that have been provided to the Council.

Council President Robinson referred to questions and requests regarding neighbors being allowed to bring action should a homeowner fail to control the smell or appearance of chickens. She asked what is the procedure the neighbors need to follow in order to object or what is the remedy. Michelle replied the Planning Commission felt that if the rules were set up to be objective and the criteria for the enclosures was an objective set of rules that needed to be followed, the notice would include a mechanism for them to contact the Code Enforcement Officer and the penalties that would be imposed should those ongoing conditions not be considered. She said the Code Enforcement Officer would be the one to evaluate and impose any infractions that may occur.

Council President Robinson asked what is the general cost for a conditional use permit to raise backyard chickens. Ms. Miller said currently the cost is \$4,145 for a Type 3 conditional use permit and there is a notice fee of \$466. Community Development Director Julia Hajduk clarified that cost is per conditional use permit, not per chicken.

Councilor Harris asked if someone could have 25 chickens. Ms. Hajduk said they could ask for 25 chickens but that is not saying through the conditional use process and hearing it could be determined that it would not be compatible with the surrounding neighborhood. She said that is the idea of the conditional use is that we look at how it fits on the property and if it is affecting the neighboring properties.

Councilor Harris said once they have the permit and want to add more chickens do they come back for an additional use permit. Ms. Hajduk said this is theoretical, but it would be an expansion of a conditional use which would require an additional process.

Councilor Kuiper asked about CC&Rs that prevent chickens. Ms. Miller said CC&Rs may have a higher bar than City rules and provided an example.

Council President Robinson restated her question about the occurrence when someone has not maintained their chicken coop and what is the remedy for the adjoining neighbors. She asked what is the remedy other than filing a lawsuit for nuisance which can be expensive. Ms. Miller said generally it would be under the typical nuisance requirement and that would either be an infraction that the Police would investigate. She said based on the severity of that investigation they could issue a penalty up to a fine of a Class C violation which is a \$250 fine.

Councilor Harris suggested that chickens fall under the category of animals and animal control would also have some ability to investigate if chickens were being abused and not cared for. Chief Groth responded that the code as written it would be a Class C violation which is \$100. He said if the Police Department receives a complaint they will go investigate and will have the ability to issue a citation. He stated the question for staff is if they fail to remedy the condition. He said the Police could revisit and issue another citation but that does not solve the problem. He said since it is a licensed activity he asked if their license could be revoked which would be the remedy. He commented on Animal Control and said if there are any animals not being cared for the Animal Control and Humane Society will be contacted to take care of the situation.



Councilor Harris stated that Animal Control does have the ability to take the animals which would remedy the situation. She asked who decides what a household pet is. Ms. Miller said a household pet is considered a cat or dog and if there is any question, there is a provision in the development code that has interpretation of similar uses and that would be up to the discretion of the Planning Manager to make the interpretation.

Councilor Harris asked if rabbits are considered household pets. Planning Manager Brad Kilby responded that rabbits are considered poultry by the USDA. Councilor Harris stated that anyone with a rabbit now is violating the permit laws. Mr. Kilby said if the City receives a complaint about a rabbit on the property he would have to make an interpretation and consult with the City Attorney. He said his decision could then be appealed and the appeal would come before an appeal body and they can make that determination. Councilor Harris said the same would be true for parrots, pigeons, pigmy goats, etc. Ms. Hajduk stated the general response is if it is an animal you can find at a normal pet store it is probably a household pet. Councilor Harris noted, it is open to interpretation, what is considered a pet.

Councilor Kuiper referred to location requirements which state that chickens are only allowed on property that is occupied by detached single family dwellings and asked about chickens roaming in the backyard. She said her concern is about chickens being kept in enclosures and the welfare of the chickens in a small enclosure. Ms. Miller responded the chickens need to stay in a fenced enclosed area during the day. She referred to the amount of room the chicken would need to roam and in her research it states chickens need 10 square feet per chicken and even a smaller area within the coup.

City Attorney Soper stated that issue is addressed in the proposed language stating chickens shall be kept within a secure enclosure at night and during the daylight hours within a fenced yard if supervised and not permitted to enter adjoining properties. He said failure to follow this would be basis for a citation.

Councilor Harris referred to Council President Robinson's comments and asked if language could be added to have permits revoked for repeat offenders. Mr. Soper said he has seen that language in other ordinances and it can be done.

Mayor Clark opened the public hearing to receive testimony.

Jim Claus 22211 SW Pacific Hwy Sherwood came forward and stated he is opposed to the way Council is passing a chicken ordinance. He suggested turning this into a public nuisance, because a nuisance is a situation of tort. He said in other words you can do the same thing in one case and there is no nuisance. He said instead of going to the Police with the complaint the neighbor should initially gather 5 classic cases of nuisance which are noise, smell, health problems and drainage and go to the Planning Commission and let them discuss it. He said the issue is not criminal at this point and if they can't come to a resolution have the City Attorney get involved in the legal end of it. He said now it is upside because we are not telling citizens that if they don't comply they will be criminals this approach will tell citizens that they can be part of the village and comply with the principle of courtesy. He said this would change it to a health and safety issue and let the Planning Commission handle the complaints. He said this way the person has the chance to face the accuser and testify.

Amy Zents 23007 SW Main Street Sherwood came forward and spoke in favor of backyard chickens mostly in part to the health and educational aspect. She said participating in the food chain is a way for

children to understand where our food is coming from and how to be involved and understand the connection.

Naomi Belov came forward and provided statistics from other jurisdictions in Washington County which she obtained from the Planning Departments in the respective towns. She commented on the \$4000 conditional use fee for chickens and how exorbitant the fee is. She said the population of Sherwood is around 19,000 and she compared Sherwood to larger jurisdictions in the County. She stated Beaverton allows chickens with a lot size of 5,000 square feet and a maximum of 5 hens and no roosters and the population of Beaverton is 93,000. She said Tigard allows chickens with no cap on the number of chickens and roosters are discouraged and the main rule is the enclosure must be 100 feet from the neighbors dwelling and the population of Tigard is 50,000. She stated Forest Grove allows chicken with up to 4 chickens on a 5,000 square feet lot with a maximum of 12 hens and no roosters. She said Tualatin allows chickens with 4 on one lot with a \$50 permit and no roosters and the population of Tualatin is 27,000. She stated Hillsboro allows chickens with 3 hens maximum depending on the size and a \$25 fee for a permit and no roosters. She said Salem allows chickens up to 6 hens and no roosters and no permit or licenses is needed and the population of Salem is 160,000. She asked the Council to look beyond their personal preferences and do what is best for future generations. She said Washington County 4H has approximately 600 members with 8 leaders and 3 are from Sherwood. She said there are 41 youths that are poultry members and 10 are from Sherwood. She stated we have 4H clubs that offers the poultry project here, there are 6 clubs from Sherwood, called the Chehalem Mountain 4H Club, Golden Fleece 4H, Blooming Livestock and Nibbles & Needles. She stated as a 4H leader and a Superintendent for Washington County Fair she asked the Council to adopt an ordinance which allows students to have a poultry project area. She said because Sherwood is an urban area most 4H animal projects are out of reach for Sherwood residents unless they are able to board their animal at a farm outside of City boundaries. She said this is not ideal due to the day to day care of the animals. She said small animals such as rabbits and chickens are the only animal projects open to 4H students living in urban areas. She stated all towns in Washington County allow poultry. She said in these cities 4H kids can benefit from the daily care of their project animal while living in an urban environment. She explained the education gained goes beyond the care of the animal by allowing kids to take responsibility for caring for an animal under the guidance of trained leaders, they are given a launching pad to learn other skills such as public speaking, leadership, record keeping. She said if we can give our kids the knowledge to grow their own produce, raise chickens which provide eggs and learn handiwork skills such as woodworking skills and fiber art, we are teaching them that self-sufficiency is an attainable skill which provides quality products.

Michael Buffington Sherwood resident came forward and commented that the proposed language does not change the price of \$4,000. He referred to a study that looked at 25 urban cities and focused on the common ordinances related to raising chickens. He said the study found that the most common number of chickens allowed was 3-4 and the City of Portland allows for 3 hens regardless of lot size and if you want more you can apply for a license. He said most cities choose not to allow roosters and those that do treat rooster noise the same as any noise nuisance. He said 10 of the 25 cities studied require permits and of the 10, 3 required fees ranging from \$5 to \$40 and that was only if the number of birds exceeded the base allowed limit. He said 14 of the 25 cities studied required that chickens not be able to run at large. He noted 17 of the 25 cities introduced nuisance ordinances to discourage improper care of the chickens. He said 3 of the 25 cities required chicken coups to be 10 to 90 feet away from property lines and 22 had no distance requirements. He noted most cities seem to be less restrictive than the proposed language. He read a letter his daughter wrote regarding the pros and cons of chickens in Sherwood. She

wrote the pros of chickens are their personality, their eggs, they are fertilizer producers, and they are gentle and cute. The letter commented on the importance of 4H and chickens are part of that.

City Manager Gall clarified the fee issue and said the conditional use permit requirement would be removed with this ordinance. Ms. Hajduk stated currently the only way to have chickens in Sherwood is to go through the conditional use process which costs approximately \$4,000. She said if this alternate language is adopted it would allow chickens through a different process and there may or may not be a fee and that would have to be discussed through a Fee Schedule update and they would recommend that it not be as high as \$4,000.

Terry Miller came forward and stated chickens are carriers of the avian flu, salmonella, staff, listeria, Lyme disease and other diseases that can be passed to humans. He said there is Lyme disease in Sherwood. He stated the Department of Agriculture keeps a record of avian flu outbreaks and versions of the flu have caused recurring epidemics in the near and far east over the last 15 years with a high mortality rate of infected humans. He said over the last several years the virus has reach Europe and the US. He commented on the 1918 pandemic which killed 100 million people and the 1957 Hong Kong epidemic which killed 1 million people with 33,000 in the United States. He said both of these were versions of the avian flu. He said currently a vaccine resistant form of this flu is a serious concern of the World Health Organization and US Center of Disease Control (CDC). He said the virus was first recorded in the US last December in a backyard flock in Douglas County, Oregon. He noted exterminating the flock was the only cure. He said in January the virus affect four more backyard flocks in Washington, Idaho, Oregon and California. He stated that month the CDC received 14 reports of birds infected with the highly pathogenic avian influenza. He said CDC emphasizes an increase likelihood of human infection stating "the virus has been associated with severe sometimes fatal disease usually following contact with poultry". He said at this time close to 50 million birds in the US have been exterminating while trying to contain the virus. He stated 16 days ago the Department of Agriculture issued an emergency alert for the State of Washington to isolate and eliminate infected backyard flocks and the disease has not been contained with its alarming ability to mutate. He said the UN World Health Organization and CDC and several state health departments have received warnings. He said the CDC states "keep baby chicks and adult poultry away from persons with weak immune systems including the elderly, pregnant women, diabetics, patients receiving chemotherapy and people infected with HIV". He stated it also cautions that a household with children less than 5 years old should not keep chickens. He said last month the CDC report noted that live poultry may have salmonella germs in the droppings and on their bodies even when they appear healthy and clean and the germs can also get on cages, coups, plants and soil where the birds live and roam. He said the salmonella germ stays in soil as long as 400 days or more and when rain comes it washes into other properties. He stated the germs can also be found on the hands, shoes and clothing of those who handle the birds or play where they live and roam. He said in 2012 the agency reported salmonella outbreaks in 27 states. He stated the 19,000 residents of Sherwood have the potential to be infected by the proposed measure and put at risk without having a realistic chance to voice an opinion. He referred to the survey where 422 where in favor of more permissive standards for backyard chickens represent only 2.3% of the population. He asked should that small number be allowed to create this possibly dangerous nuisance? He said he has found that few of the remaining 97.3% of the citizens knew little of the chicken issue or the survey. He said this measure could affect everyone and he asked how will chickens be regulated? He asked how much will it cost to handle complaints and ensure bio-safety and cleanliness and how much will it cost to handle lawsuits?

Mayor Clark called for a recess at 8:27 pm and reconvened at 8:35 pm, and continued to receive public testimony.

*Record Note: Councilor King left the meeting during the recess and returned at 8:44 pm.*

Carole Miller 14904 SW Lowell Lane Sherwood came forward and stated viruses are mutating and we can't control them, even by exterminating over 50 million chickens in the Midwest. She asked how can Sherwood keep disease from spreading by allowing backyard chickens? She referred to previous testimony regarding children understanding where their food comes from and asked if the people understand the danger children will be in if they catch a disease from the chickens.

Anthony Bevel Sherwood resident came forward and stated he attended the July 14 Planning Commission meeting and the mentioning of salmonella and avian flu may have scared the Commissioners. He said 5 people attended the meeting and 3 spoke opposed to the issue and no one spoke in favor. He stated the Planning Commission put out a survey that over 500 people responded to and 83% were in favor of backyard chickens with tight guidelines. He said the Planning Commission then held the survey in suspect because wording was similar on the survey. He stated the Planning Commission chose to ignore 83% of the respondents. He referred to the comments on chicken disease and said these are pet diseases. He said according to the CDC in 25 years there have been 53 salmonella outbreaks resulting in 2,611 illnesses, 387 hospitalizations and 5 deaths. He stated the CDC recommends washing your hands after you touch chickens. He referred to comments regarding smell, noise and predators. He commented that the 1000 feet noticing is a lot. He said we need to have common sense.

Nadia Belov Sherwood resident on SW Lincoln Street came forward and stated she is a member of 4H and commented on the benefits of being able to raise chickens in town. She commented on the diseases mentioned and said in 4H they learn about all the diseases and it is not likely that you will get the avian flu from your chicken and there are common sense ways to prevent it such as washing your hands. She said the positive thing about chickens is it teaches you about agriculture and where your food comes from and they make great pets. She said the avian flu affects large commercial chicken operations.

Ryan Weller 15621 SW Bowmen Ct. Sherwood came forward and stated he supports chickens and commented on the benefits of reducing food waste. He said he agrees with the other pro chicken remarks.

Morte Zaaleali Sherwood resident came forward and commented on the \$4,000 fee for chickens and said that is not fair or reasonable. He stated 3 chickens are not enough and the number should be higher. He asked Council to reconsider the fee and the number of chickens. He referred to concerns about diseases and stated that is the result of overcrowded dirty environments not 3 chickens in your backyard. He noted any animal can have diseases and we shouldn't be in fear of chickens.

Lori Randel Sherwood resident came forward and stated she is in support of backyard chickens. She said the High School used to have chickens and it was good for the kids. She asked if the Planning Commission meeting was poorly attended because of the \$4,000 fee. She said if there is a reasonable ordinance in place people will comply.

Shannon Rose a Hillsboro real estate broker came forward and stated she owns backyard chickens and shared her experience. She started raising backyard chickens 5 years ago out of concern for the industrial food supply. She said her doctor asked her to do research because her immune system was compromised. She said according to the CDC there has not been a death from backyard chickens within the last 4 years and conversely there have been two deaths from imported cucumbers. She referred to the avian flu risk and said having 30,000 chickens under one roof will make them susceptible to disease versus 3 backyard chickens. She said the avian flu outbreak will result in more imported eggs and that makes her nervous. She stated the benefits of backyard chickens are, you are not relying on the industrial food chain, saving money, and nutrition. She said it is important that people are able to be self-sustaining. She said professionally she has sold several homes with backyard chicken coups and they sell quickly and are a selling point. She said she has never received complaints about noise or smell. She stated Portland allows backyard chickens and it is one of the fastest appreciating markets in the country.

Naomi Belov came forward on behalf of her neighbor. She read a letter from Karinya Moisan: I appreciate that the Council is taking the time to hear from the community regarding the exorbitant fee associated with the simple pleasure of having backyard chickens. She read, she has lived in Sherwood for 7.5 years and has wanted to have chickens the entire time, however the fear of being fined \$4000 and having my chickens seized has prevented her from enjoying this small farm animal that has so many benefits. She lives on just over a quarter of an acre within the City and would love to be able to teach her daughter about animal husbandry and the trials and tribulations that go along with their day to day care. She has researched the neighboring cities ordinances in regards to backyard chickens and Sherwood is the only City that she can find that has this ridiculous fee. Her family would greatly appreciate if the City could come to a resolution with this issue and join the greater Portland area in its acceptance of backyard chickens. She realizes that there are concerns about mess and noise (she votes for no roosters), however, she think that the City can resolve these issues with moderate and reasonable regulations.

Mayor Clark closed the public hearing and asked for Council comments.

Council President Robinson used a tape measure to demonstrate how far 10 feet is and the proposed language allows chicken enclosures to be 10 feet from the property line and stated that is not very far. She stated that although the enclosure has to be 10 feet from the property line the droppings from the chicken could be right on the other side of the fence if your fence is on the property line if the chickens are allowed to roam free. She said she is not against chickens and raised them as a child. She commented on the mess and odor that occurs over time. She referred to comments she has heard from citizens that have neighbors with illegal chickens and the odor prevents them from opening their windows during the summer. She said they have approached the neighbors and they refuse to do anything about it and that is the scenarios she sees coming forward if a backyard chicken ordinance is passed. She stated Sherwood is a small town and the conditions are tight and she has a significant concern about odor, rodents, health problems, and drainage. She stated she lives on a 5,000 square feet lot and her neighbors water drains into her yard and if the neighbor had chickens the droppings would drain to her yard and she has a dog that could track that in the house. She said she is concerned about the location and creating conflicts with neighbors. She stated she is not concerned with the initial ownership but what happens down the road and how conflicts will be resolved. She said the Code Enforcement Officer is already busy with dogs and cats and chickens would add to that. She commented that there is a farm outside the city limits where you can buy a chicken and get the eggs from that chicken. She said she agrees with incentives to have fresh eggs but said this is not appropriate for the small lots in Sherwood. She referred to the language of the proposed ordinance and said she does not agree that up to 3

chickens should be allowed on 5,000 square foot lots and she does not agree that enclosures should be within 10 feet of the property line. She said any ordinance needs to include a provision that a repeat of violations may result in revocation of any permit that is issued.

Councilor King stated he does not support the ordinance and said he would support having a certain structure for applying for conditional use permit other than \$4,000.

Mayor Clark clarified with Councilor King that he is not in favor of the ordinance as proposed and he would not be against reducing the conditional use permit for chickens. She asked what would be an appropriate fee. Councilor King said that would need to be explored and suggested something around \$250 to have backyard chickens.

Community Development Director Julia Hajduk explained the conditional use process and said the fee for the conditional use permit for chickens is high because it considers the staff time, the attorney time and the hiring of a Hearings Officer. Councilor King said he understands and suggested streamlining the process for this particular use so it would not be so high. Ms. Hajduk stated it would then not be a conditional use process.

Mayor Clark asked Ms. Hajduk if she would recommend having a special category for the special use permit for chickens. Ms. Hajduk said that is a discretionary decision for Council. Mayor Clark asked if that would be a process that could be streamlined. Ms. Hajduk said if we were to create a special process that would require an amendment process that would have to discuss the criteria, the process and how it would be evaluated.

Councilor Kuiper asked what if someone pays the \$4,000 now and asked what conditions are they subject to. Ms. Miller said there is a special chapter in the Code titled Condition Use Permit Qualifications and there are use criteria that are evaluated basically on a case by case basis. She said by having a conditional use permit category it is uncertain to the applicants as to how their neighbors will respond to the situation and what conditions would be imposed. She said the decisions are not made by community members but by an objective Hearings Officer. She stated the conditions would be on a case by case basis.

Councilor King said as a neighbor you would want those issues addressed.

Councilor Kuiper said there would be parameters by which the Planning Department would need to compare to determine if a conditional use permit would be issued. Ms. Miller said it is similar to how they evaluated this proposed code and what was recommended to the Planning Commission. She said they looked at other jurisdictions and other best practices. She said this proposed code language is the combination of their research.

Councilor King said the permit is more proactive in preventing problems rather than having the code in place to enforce.

Councilor Harris referred to the research regarding other cities and asked if other jurisdiction had it under a special use permit. Ms. Miller provided the Council with another handout, "Samples of Surrounding Jurisdiction Chicken Policy" (see record, Exhibit E).

Mayor Clark said the Council received several emails from the public and entered the public testimony into the record.

*Recorder Note: Email from Alicia Tadema, email from Teresa Hetu, 2<sup>nd</sup> email from Teresa Hetu, email from Roxanne Blackwood, email from CJ Braccialini, email from Matthew Young, email from Leo Bartnik, email from Sarah Hagan, letter from Leah Buffington, letter from Mr. and Mrs. Roderick Meserve, email from Teresa Denney, email from Allison Erdman, (see record, Exhibit F).*

Councilor Harris referred to comments regarding diseases and listed several diseases that are passed from cats and dogs to humans. She said we are not concerned about these diseases and don't have a \$4,000 special permit fee for cats and dogs and are not concerned enough to ban cats and dogs. She stated we are at a higher risk from getting sick from our dog or cat than from a neighbors chicken. She said she is in support of allowing chickens and commented on change. She referred to the Planning Commission not recommending the proposed ordinance for a lack of interest and said there is a lot of interest for chickens. She said you can't base a decision on whether enough citizens show up to a meeting. She referred to common sense and the number of other cities that have chickens. She said the negative issues being discussed have not happened and backyard chickens do not cause mass hysteria and death. She said the large factory farms are different than backyard chickens. She referred to Council President Robinsons remarks and agreed that there are not a lot of neighborhood HOA's that will allow backyard chickens. She said there is not a town around Sherwood that bans chickens and has a fee over \$500. She referred to the comments that the 535 survey results were fake and said even if you throw out half of the pros that is still a lot of people who want chickens. She said she is representing people that want chickens and the majority of the citizens in the room and the emails received want chickens and she is supporting chickens.

Councilor King asked how long chickens have been under a conditional use. Ms. Hajduk said at least ten years.

Mayor Clark said there is not a repeated offense clause in the proposed ordinance and asked if staff could construct language to address repeat offenders. Ms. Hajduk said yes and reminded the Council that if you are repeatedly offending you probably don't care if your license is revoked. Mayor Clark stated there would be a fee associated.

City Attorney Soper noted that it would also simplify the enforcement. Mayor Clark referred to comments that the language does not include a repeated offense clause or a schedule of disciplinary action. She referred to a letter from Chief Groth that addressed this and said if something is approved there needs to be parameters of what they should expect.

Mayor Clark stated the proposed ordinance should include language pertaining to fees and referred to the suggestions provided by Ms. Miller. Ms. Hajduk recommended not putting fee language in the ordinance but in the fee schedule. She said if something is adopted staff would need to evaluate what it would cost in staff time and process, and then Council could decide whether they want to charge the full cost or subsidize it. Mayor Clark clarified that if the ordinance is adopted, staff would bring back fee language to the Council.

Mr. Soper stated, in Section 6.03.050(A) of the proposed language it states that a processing fee would be paid. He said the reason they don't put fees in the ordinance itself is they would have to go through a hearing process every time they wanted to change the fee.

City Manager Gall referred to the comparison chart and stated other jurisdictions don't use the conditional use permit for backyard chickens. He said others either allow chickens with regulations or a small fee. He stated Sherwood is unusual by categorizing this as a conditional use permit which is the same kind of permit used for major development applications where the fee is not prohibitive for a developer. He said this was not designed for a chicken and the existing language says raising animals other than household pet, and that is a broad category.

Councilor Kuiper referred to Section 6.03.050(B) of the proposed language that states tenants and renters are permitted to keep chickens only with the written permission of the property owner and asked if that would be submitted as part of an application. She said she is concerned with the number of chickens allowed on 5,000 square feet lot and said those lots are small and she is concerned for neighbors and the health of the chickens. Ms. Miller stated the Planning Commission also had those concerns and said 5,000 square feet is the minimum lot size for any standard single family home in the City.

Councilor Brouse asked what the average size of lot in Sherwood is. Ms. Miller said there is a series of zonings, ranging from very low density residential with a minimum lot size of 40,000 square feet and high density residential with a minimum lot size of 5,000 square feet. She said she does not know the average lot size and noted that all of Woodhaven is considered low density residential within a PUD with a 7,000 minimum square feet lot size.

Councilor Brouse referred to Section 6.03.040(B) of the proposed language which states "Chickens must be kept for personal, non-commercial use only. No person may sell eggs or engage in chicken breeding or fertilizer production for commercial purposes" and asked what is the violation for selling eggs. Ms. Miller said the proposed language includes the penalty for violation of the chapter so any violation of any of the ongoing conditions or criteria would be eligible for the penalty of a Class C violation which is \$250. She said commercial is defined as selling for profit.

Councilor Brouse commented on chicken coups with heaters and the potential for fire and asked if there would be any language which would alleviate that hazard. Ms. Miller said the accessories structures are set up for the distances from the property lines and she suggested that maybe homeowners insurance would cover those types of incidences. Ms. Hajduk said the proposed language does not address this and suggested that if Council approves the proposed language staff could prepare a best practices sheet that could be distributed with the permit. Ms. Miller suggested having an open house with experts on raising backyard chickens to provide advice. She stated the application process in other jurisdiction is elaborate and said she could provide examples of the applications.

Councilor Henderson referred to the distances between the buildings and noted that Tigard, West Linn and Wilsonville allow chickens but require them to be 100 feet from another residents. She asked if you could be 100 feet from another resident on a 5,000 square feet lot adjacent to another 5,000 square feet lot? Ms. Miller replied that would be challenging.

Councilor Henderson commented on the other cities that have been mentioned and said Sherwood is the smallest and said that is the concern people have. She noted that Sherwood has a number of small lots



and the proposed language stated single family homes which would eliminate townhomes. She referred to Section 6.03.050 of the proposed language which states, "Within 14 calendar days following the approval of a license application, the City will provide written notice by first class mail to all property owners immediately abutting the license holder's property. The notice must contain the name and address of the license holder for persons to seek information or file complaints." She commented on due process and asked who do people contact with complaints and said due process is not in the proposed language. Ms. Hajduk commented on the intent of the section and said staff can amend the language with the direction of the Council or Council can send the language back to the Planning Commission for further review.

Council President Robinson asked if Council could direct staff to modify the ordinance to make it a minimum 10,000 square feet lot size and to add a provision about repeated violation. She asked if there would have to be another first reading? Mr. Soper said the Charter does contemplate that you can make amendments and changes to the ordinance without starting the process over. He said Council can direct staff to bring amendments to the next hearing and continue forward with that being the second hearing and possible adoption.

Mayor Clark said should Council pass this to a second hearing she is hearing support for staff to return with a due process for dispute and repeated offense clause or provision. She said chickens have been discussed for a long time and she appreciates the discussion. She commented on the \$4,000 fee and said she is in favor of having this discussion. She noted that she is not a proponent of chickens and does not want chickens in her yard. She referred to comments from Mr. Claus regarding having discourse and discussion with our neighbors and said that is part of being a neighborhood. She said HOAs will have the right to ban chickens and commented on free will, personal liberties, working with your neighbors and having a fair dispute resolution process. She said she does not have an affinity with chickens nor does she have a problem with them. She stated if her neighbor wants to have chickens that is their civil liberty and as long as it does not negatively affect her. She noted there needs to be a stronger due process for disputes. She noted that there are a lot of people in Sherwood now with chickens and she would rather have an ordinance that addresses people having chickens in a nice respectable manner so that the parameters of use are identified. She said this ordinance will clean up an issue that continues to be discussed and never dealt with.

Councilor Kuiper stated she agreed with Mayor Clark and is a believer in discussion and third options. She referred to Councilor Henderson's comments about neighboring cities allowing chickens and said a lot of Sherwood's growth has been under the development of Metro and Metro has kept the density more compact and that should be considered as requirements and the number of chickens that are allowed on different sized lots. She said the best way to address chickens is to discuss and draft an ordinance.

With no further Council discussion Mayor Clark asked for a motion.

Mr. Gall asked Mr. Soper to discuss with Council how to move forward and said staff needs direction and clarity.

Mr. Soper said the motion would be to approve the ordinance and go to the next hearing. He said the next Council meeting may be too soon due to the volume of changes discussed and the October 20 meeting would be more reasonable. He discussed the possible changes and asked to for clarity. He asked about provisions for permits being revoked after multiple violations and the Council agreed to direct staff to add

language. He asked for clarification of the process by which a neighbor can file a complaint and the Council agreed and directed staff to add language. He referred to comments about which properties would be eligible, setbacks, number of hens, minimum lot size and minimum size of enclosure based on the number of hens and asked for clarification from the Council on those four subjects.

Mayor Clark said she does not need any of the four subjects addressed. Councilor Harris said she agrees.

Council President Robinson said she would like the minimum lot size changed to 10,000 square feet and above.

Councilor Kuiper said she would support the minimum lot size changed to 7,500 square feet, medium density residential and above.

Ms. Miller said the low density residential minimum lot size is 7,000 square feet.

Councilor Kuiper said she would support low density and above, at least 7,000 square feet.

Councilor Brouse agreed with changing the minimum lot size to 7,000 square feet.

Councilor Harris referred to Councilor Henderson's comments that Tigard, West Linn and Wilsonville required at least 100 feet from residents and said there are six other cities that require 25 feet or less.

Mayor Clark said none of the other cities are requiring a certain lot size.

Councilor Kuiper said some of them are and they may not have too because their development was not subject to Metro growth.

Council President Robinson said she would support 25 feet minimum from another home.

Councilor Kuiper agreed with Council President Robinson.

Mr. Soper clarified that the proposed ordinance requires 25 feet from another home and 10 feet from a property line.

Council President Robinson stated she would support 25 feet minimum from a property line.

Mayor Clark and Councilor Kuiper said they do not need the 25 feet minimum from a property line. Councilor Kuiper said she is more concerned about lot size.

City Manager Gall asked the Council if there was a consensus to change the minimum lot size to 7,000 square feet.

Ms. Miller reminded the Council that the proposed ordinance allows 3 hens on a 5,000 square feet lot and 5 hens on 10,000 square feet lot and asked if they wanted to change the language to state 3 hens on a 7,000 square feet lot and 5 hens on 10,000 square feet lot.

Councilor Harris said if the minimum lot size is increased the number of hens allowed should increase to perhaps 4.

Mayor Clark asked Councilor Henderson if she agreed with changing the minimum required lot size to have chickens increased from 5,000 square feet to 7,000 square feet or larger. Councilor Henderson said she would support 7,000 square feet. She said the coup location does not necessarily matter and provided examples.

Mr. Soper agreed to change the minimum lot size from 5,000 square feet to 7,000 square feet.

Councilor Henderson said she served on the Charter Review Committee with Councilor Kuiper and Councilor Brouse who was an alternate and said the intent of amending the Charter to require a first and second reading was supposed to be for the public. She said the Council is now using the first and second reading to address questions and concerns.

Councilor Kuiper said what Council is doing does not supersede the public.

Councilor Henderson said she does not understand the rationale of voting yes for an ordinance which does not meet her needs just to move forward and make the corrections. She said she would move to continue the hearing. She stated that she will vote against a motion to approve and if the motion fails it defeats the purpose of a first and second reading.

Mr. Soper said he agrees that the process is unusual and the language should be cleaned up at some point.

Mayor Clark clarified that we have an ordinance that requires Council to vote on whether to move it forward to a second reading. Mr. Soper said that is correct and said it is phrased as "approval". Mayor Clark said Council needs to understand that there will be a second reading on the ordinance and staff will be directed to make changes and should a majority of the Council vote against approval, the ordinance will not return for a second hearing. She asked for a motion.

Councilor Harris asked if the ordinance can be tabled and brought back.

Mayor Clark said it would then come back for a first hearing and then a second hearing and she said that is a waste of time.

Councilor Kuiper clarified that the Council would be voting to approve to bring the ordinance back with no edits.

Mr. Soper said Council is voting to approve the ordinance for purposes of continuing to a second hearing.

Councilor Harris said Council should not vote against the ordinance just because they want the public to know they are against chickens even though they might support a more appropriate ordinance allowing chickens.

City Manager Gall asked Mr. Soper if he had clear direction from Council. He responded that he had the high points.

**MOTION: MAYOR CLARK MOVED THAT CITY COUNCIL APPROVE ORDINANCE 2015-007 AMENDING TITLE 6 OF THE MUNICIPAL CODE AND DIVISION II OF THE ZONING AND COMMUNITY DEVELOPMENT CODE AND CHAPTER 6 OF THE MUNICIPAL CODE AS IT RELATES TO THE REGULATION OF BACKYARD CHICKENS AND PLACE IT ON THE OCTOBER 20, 2015 CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION, SECONDED BY COUNCILOR HARRIS. MOTION PASSED 5:2. (MAYOR CLARK, COUNCILORS KUIPER, HARRIS, BROUSE AND HENDERSON VOTED IN FAVOR, COUNCIL PRESIDENT ROBINSON AND COUNCILOR KING VOTED AGAINST).**

Mayor Clark addressed the next item on the agenda.

**C. Ordinance 2015-008 Prohibiting early sales of recreational marijuana by medical marijuana dispensaries**

City Attorney Soper stated this ordinance is before the Council based on the joint work session with the Police Advisory Board where staff was directed to draft an ordinance to prohibit the early sales of recreational marijuana by medical marijuana dispensaries within the City of Sherwood. He summarized the staff report and said there is a version A and a version B of the ordinance. He noted the distinction is version A would be adopted at a single hearing on an emergency clause and effective immediately and requires unanimous approval. He noted the start date for early sales of recreational marijuana is October 1 and if the Council does not follow this procedure they will not have an ordinance in place by October 1. He said the alternative is version B which would adopt an ordinance after two hearings and be effective 30 days after the final approval and therefore would not take effect until October 22 or later giving at least a 3 week period in which recreational marijuana sales could theoretically happen in medical marijuana dispensaries. He said this version would only require a simple majority vote.

Councilor King said he had to leave and said that if he were present he would vote to not allow the sales.

Mr. Soper clarified that the unanimous vote required to make the ordinance effective immediately means 100% of the Councilors. He said the Council could vote now while Councilor King is present. Mayor Clark said there are two requests for public comment and Mr. Soper said the Council must take public comment before voting. Mayor Clark asked Councilor King to stay for the public comment.

Mayor Clark opened the public hearing.

Anthony Bevel, Sherwood resident approached the Council and said recreational marijuana sales are going to happen and he is concerned about the business owner's investment and how it affects them. He said he supports delaying the sales until January to allow the details to be worked out.

Sheri Ralston came forward and said one of the reasons for allowing early marijuana sales is to start to mitigate the black market. She said when discussing recreation sales for marijuana there is concern for safety, crimes, and crowds but there is a growing number of people that use marijuana for other aids which don't qualify them for medical marijuana cards so they buy it on the black market. She said they are not getting a safe product because it is not being tested and that was another reason for allowing early sales. She referred to an article in Time magazine regarding a growing population of senior citizens that are moving to states where it is legal to get cannabis for chronic pain and parents whose children need relief from seizures. She said Council can consider limiting hours and requiring a security guard to make

the community feel safe. She listed the cities in Oregon that are allowing early recreation sales. She said there are projections that the revenue in medical dispensaries will double if they sell recreational marijuana which is equivalent to approximately \$3,000 to \$4,000 a day in sales. She referred to information in the Oregonian regarding Washington's recreational marijuana dispensaries and they do between \$1 million and \$9 million in sales a year which calculates to \$3,000 to \$5,000 a day. She asked Council to consider this information.

Mayor Clark asked for clarification on the emergency clause. Mr. Soper said there is an emergency clause in version A of Ordinance 2015-008.

**MOTION: MAYOR CLARK MOVED THE CITY COUNCIL APPROVE ORDINANCE 2015-008 PROHIBITING EARLY SALES OF RECREATIONAL MARIJUANA BY MEDICAL MARIJUANA DISPENSARIES, VERSION A.**

Prior to receiving a second to the motion Councilor Henderson referred to Mr. Bevel's comments that this ordinance would ban the sales until January and said it is a ban until December of 2016. Mr. Soper stated we don't know exactly when recreational sales at retail outlets will start but it may be in the middle of 2016.

**SECOND: MOTION WAS SECONDED BY COUNCILOR KING. MOTION PASSED 7:0. ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark addressed the next item on the agenda.

**9. CITY MANAGER REPORT:**

None. Mayor Clark addressed the next item on the agenda.

**10. COUNCIL ANNOUNCEMENTS:**

Mayor Clark requested that due to the late hour Council hold their comments until the next meeting.

Mayor Clark asked for a motion to adjourn.

**11. ADJOURN:**

**MOTION: FROM COUNCILOR KUIPER TO ADJOURN, SECONDED BY COUNCILOR KING, MOTION PASSED 7:0. ALL MEMBERS VOTED IN FAVOR.**

Mayor Clark adjourned the meeting at 10:20 pm.

Submitted by:

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Sylvia Murphy, MMC, City Recorder

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Krisanna Clark, Mayor